

United States District Court
Eastern District of Michigan

United States of America
v.

ORDER OF DETENTION PENDING TRIAL

Luis Oviedo
Defendant

Case Number: 06-30169

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

(1) I find that:

- ☐ there is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or _____;
- ☐ under 18 U.S.C. § 924(c).

(2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

✓ I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

☐ I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- ✓ (a) nature of the offense–Def charged with smuggling into U.S. illegal aliens.
- ✓ (b) weight of the evidence–Van started in Houston Texas and driving to Detroit. All passengers were illegal aliens. Family of one of the illegal aliens was told that had to pay \$500 to get the person back. Money was paid to co-defendant and phone call allegedly made by co-defendant.

✓ (c) history and characteristics of the defendant

✓ 1) physical and mental condition–age 57, not in great health. PRETRIAL BELIEVES THERE IS A QUESTION OF HIS CITIZENSHIP. DEF. APPEARS TO THEM TO BE AN ILLEGAL ALIEN. CITIZENSHIP STATUS MUST BE CONFIRMED PRIOR TO RELEASE.

✓ 2) employment, financial, family ties–Works for a transportation company, that is licensed to do business in the United States, defendant is ostensibly a United States citizen but has lived in Mexico from the age of six months to age 18, since that time has worked in the United States. Has worked in U.S. for many years, with wife and children living in Mexico. Is a chauffeur –but was in a van with five illegal aliens. Worked for this company for only about two weeks.

✓ 3) criminal history and record of appearance–Defendant has worked as landscaper and transportation person for at least 15 years. He has a social security number and pays taxes per def counsel. No filings made known/ may not make sufficient amount to file.

- ☐ (d) probation, parole or bond at time of the alleged offense
- ☐ (e) danger to another person or community

ADDITIONAL FINDINGS: THIRD PARTY CUSTODIAN PREVIOUSLY IDENTIFIED DETERMINED TO BE ASSOCIATED WITH VEHICLES AND EMPLOYMENT CONSISTENT WITH TRANSPORT OF ILLEGAL ALIENS. NOT SUITABLE FOR THIRD PARTY CUSTODY.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending

appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date April 5, 2006

s/Virginia M. Morgan

Signature of Judge

Virginia M. Morgan, United States Magistrate Judge

Name and Title of Judge